UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,815	03/23/2004	Keisuke Hirai	1232-5350	4399

27123 7590 09/19/2007

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER	
MISLEH, JUSTIN P	
ART UNIT	**PAPER NUMBER**
2622	

NOTIFICATION DATE	DELIVERY MODE
09/19/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com
Shopkins@Morganfinnegan.com
Tquinones@Morganfinnegan.com

Office Action Summary	Application No.	Applicant(s)	
	10/807,815	HIRAI, KEISUKE	
	Examiner	Art Unit	
	Justin P. Misleh	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 9* is/are pending in the application.

4a) Of the above claim(s) *5 - 9* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 March 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species II (Figure 9) in the reply filed on July 13, 2007 is acknowledged. The traversal is on the grounds that "the Species II (Figure 9), Species III (Figure 13) and Species V (Figure 24) show that size and position of focus detection area are changed respectively." This is not found persuasive because Species II shows a main focusing area having a three settable focus detection areas of different sizes and position with no central focusing area, Species III a main focusing area having a three settable focus detection areas of different sizes and position with a central focusing area set as an initialization focus detection area, and Species V shows a main focusing area having a settable focus detection area of arbitrary position and variable size having a continuous focus process.

2. The requirement is still deemed proper and is therefore made FINAL.

3. **Claims 5 – 9** are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species II (figure 9), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 13, 2007.

Specification

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1 – 4** are rejected under 35 U.S.C. 102(b) as being anticipated by Narisawa (US 5,749,000).

8. For **Claim 1**, Narisawa discloses, as shown in figures 1B, 2, 8, 11, and 12, an optical apparatus comprising:

a focus detection unit (AF Sensor 10) detecting a focus state of an image-taking optical system (Lens Drive Device 13) with respect to an object included in a focus detection area (see column 4, lines 34 – 36);

a first operating member (AF Mode Dial 200) which is operated for changing at least one of a size and a position of the focus detection area (First AF Mode Switch 200a, corresponding to figure 11, allows for the selection of a single detection area from among nine spatially separated detection areas and Second AF Mode Switch 200b, corresponding to figure 12, allows for the selection of two detection areas from among the nine spatially separated detection areas; see column 4, lines 37 – 47);

a memory (not explicitly shown; however, necessary for the operations described by Narisawa) storing a plurality of focus detection areas which differ from each other in at least one of size and position (Figure 1B shows the nine predetermined spatially separated focus detection areas. The specific number and position of these detection areas are invariable and necessary for proper operation. Therefore, Narisawa must have a memory to store these focus detection areas.); and

a controller (CPU 16) performing a storage process of storing the plurality of focus detection areas into the memory (As indicated above, have a memory to store these focus detection areas. Accordingly, the controller would have to access the memory to extract and maintain the focus detection areas.) and a setting process of setting (see figure 8), from the stored plurality of focus detection areas, a focus detection area used for detection of the focus state (Once it is determined in step S82 whether the AF Mode is the First AF Mode or the Second AF Mode, the operator voices-in the focus detection area(s) desired in accordance with the selected mode; see figure 12 and column 8, lines 6 – 65. Furthermore, the operator pre-programs a voice to correspond with a particular focus detection area; see figure 4 and column 5, line 63 – column 6, line 7. Only those focus detections which have been programmed with a voice are those available for selection in each of the First AF Mode or Second AF Mode; see steps S84 and S88 in figure 8).

9. As for **Claim 2**, Narisawa discloses, as shown in figure 15, an image-pickup element (AF Sensor 10), which photoelectrically converts an object image formed by the image-taking optical system (see column 10, lines 36 – 39);

wherein the focus detection unit (AF Sensor 10) generates a focus evaluation signal representing a contrast state of a signal component of a video signal obtained using the image-pickup element (see column 10, lines 39 – 46), the signal component corresponding to the focus detection area; and

wherein the controller performs such a focus control of the image-taking optical system that the focus evaluation signal takes on a predetermined level or more (see column 10, line 47 – column 11, line 25).

10. As for **Claim 3**, Narisawa discloses, as shown in figures 1B, 2, 8, 11, and 12, a second operating member (microphone 700) which is operated for selecting one of the plurality of stored focus detection areas (see steps S85 and S89 in figure 8; also see figure 6);

wherein the controller performs the setting process in response to an operation of the second operating member (see steps S86 and S90 in figure 8).

11. As for **Claim 4**, Narisawa discloses, as shown in figures 1B, 2, 8, 11, and 12, a plurality of second operating members (CAL1 switch, CAL2 switch, First AF Mode Switch 200a, and Second AF mode Switch 200b);

wherein the controller (CPU 16), in response to a first operation of one of the second operating members (associating voice with the focus detection areas; see figure 4), stores the focus detection area at the time of the first operation in the memory in association with the second operating member subjected to the first operation (see column 4, line 66 – column 5, line 10); and

wherein the controller (CPU 16), in response to a second operation of one of the second operating members (selecting the focus detection areas via switches 200a and 200b; see figure

8), sets the focus detection area stored in the memory in association with the second operating member subjected to the second operation as a to-be-used focus detection area (see column 7, line 44 – column 9,line 20).

Cited Prior Art

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure for the following reasons:

US 6,812,968; US 7,034,881; US 2003/0142880; US 2003/0076429; US 2003/0076437 each disclose at least a focus detection unit detecting a focus state of an image-taking optical system with respect to an object included in a focus detection area and a first operating member which is operated for changing at least one of a size and a position of the focus detection area.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lin Ye can be reached on 571.272.7372. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Justin Misleh
Examiner, GAU 2622
September 13, 2007